

Application Serial No. 10/589,635
Reply to Office Action of September 15, 2008

PATENT
Docket: CU-5017

REMARKS

In the Office Action, dated September 15, 2008, the Examiner states that Claims 15-30 are pending and rejected. By the present Amendment, Applicant amends the claims.

Claims 15-30 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 16 to 35 of US Serial No. 10/589,546. Claims 15-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Oishi et al. (*J.A.C.S.*, 126:4768-4769 (2004)). Claims 22-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Oishi et al. in view of JP 40-26525. Applicant respectfully disagrees with and traverses these rejections.

All of the currently amended claims (15, 16 and 21) (hereinafter, present inventions 1, 2 and 3, respectively) include the feature of a basic shape of the seed crystal is a hexagonally dipyramidal shape.

Support for these amendments can be found, among other locations, on page 17 lines 6-8, page 40 lines 9-22, page 44 line 3 to page 47 line 12 (Examples), page 40 lines 9-22 and page 44 line 3 to page 47 line 12 of the specification.

By including this structural feature, the present inventions 1, 2 and 3 (hereinafter, may be referred as simply the present inventions) can use the seed crystal having a hexagonally dipyramidal shape as its basic shape, and thereby attain an advantageous effect of selectively producing an artificial corundum crystal having a hexagonally dipyramidal shape its basic shape (page 40 lines 9-22 of the specification).

On the other hand, none of the cited prior art teach or suggest the above-mentioned structural features or characteristics. As such, unlike the present inventions, an artificial corundum crystal obtained from the cited prior art cannot be selectively made an artificial corundum crystal having a hexagonally dipyramidal shape as its basic shape.

As the Office Action rightly points out, US Serial No. 10/589,546 teaches the use of a platinum base material. However, as explained in paragraph [0088] of this reference, the platinum base material is not to function as nucleus. In other words, in this reference, an aluminum oxide particle remained without melting serves as a

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nucleus and the platinum base material is merely what a corundum crystal adheres thereto. Thus, the platinum base material of this reference is different from the seed crystal. Further, this reference is completely silent in disclosing that the platinum base material functions as a seed crystal.

To support a *prima facie* case of obviousness, the Office Action must establish "a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference." Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of *KSR International Co. v. Teleflex Inc.*, 72 Fed. Reg. 57,526 (Oct. 10, 2007).

In view of the foregoing structural features and characteristics claimed in the present inventions but absent from the cited prior art, Applicant respectfully requests withdrawal of the present double patenting rejection and the rejections under 35 U.S.C. §103(a).

Since independent Claims 15, 16 and 21 are allowable over the prior art, Applicant asserts that all claims depending therefrom are allowable for at least the same reasons, as well as for the features that they recite.

In light of the foregoing response, all the outstanding objections and rejections are considered overcome. Applicant respectfully submits that this application should now be in condition for allowance and respectfully requests favorable consideration.

Respectfully submitted,

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